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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

IN KON PARK,

Plaintiff and Appellant,

v.

KOREA SPORTS COUNCIL IN U.S.A., et al.,

Defendants and Respondents.

B210970

(Los Angeles County
Super. Ct. No. BC373417)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Kenneth R. Freeman, Judge. Affirmed.

Law Offices of Chan Yong Jeong, Chan Yong Jeong and Amina Diaz for Plaintiff
and Appellant.

No appearance on behalf of Defendants and Respondents.

* * * * *

Appellant In Kon Park, a member of the Korea Sports Council in U.S.A. (Council) sued the Council and two of its members, Jung H. Chang (also known as Chong Hyon Chang) and Michael K. Park (also known as Kyu Hyun Park), for a declaratory judgment that the Council's presidential election on July 15, 2006 was invalid because the defendants violated the rules governing the election. Following appellant's presentation of evidence during a one-day bench trial, the defendants brought a motion for judgment, which the trial court granted. Appellant appeals from the judgment, which we affirm.¹

FACTUAL AND PROCEDURAL BACKGROUND

The Council is a nonprofit corporation organized to promote amateur sports among Korean Americans living in the United States. It is a California corporation with its principal place of business in Los Angeles. The Council is a branch of the Korea Sports Council in Seoul, Korea (KSC). The Council announced in the local newspaper a general meeting for the Council's 13th presidential election to be held on July 15, 2006 at the Rotex hotel in Los Angeles. Twenty-five out of a possible 39 members attended the meeting, the election was held, and defendant Jung H. Chang was declared the president. Appellant testified that he never received notice of the meeting and did not attend it.

In June 2007, appellant filed suit for declaratory relief seeking an injunction prohibiting defendants from declaring the election to be valid, and damages "according to proof at trial." He alleged that the election was invalid for the following reasons: (1) It violated the Council's bylaws because there was no board of directors meeting held prior to the general meeting and no selection of the central representatives to participate in the general meeting; (2) there was no nationwide publication of the announcement of the general meeting, in violation of the KSC's rules of overseas branches (ROB); and (3) there was no submittal of the consular approval letter authenticating the qualification

¹ There is no respondents' brief on appeal. Pursuant to California Rules of Court, rule 8.220(a)(2), we may decide the appeal on the record, the opening brief and any oral argument by the appellant.

of representative members to participate in the general meeting, in violation of the ROB and the Council's bylaws.

The case proceeded to a bench trial in which appellant took the position that the ROB governed the Council's presidential election. Appellant presented his own testimony and that of defendant Michael Park, who had been head of the election control committee. After appellant rested, defendants filed a written motion for judgment, on the grounds that there had been no evidence presented that the ROB governed the Council's presidential elections, and that there was no evidence of any election irregularities. The trial court granted the motion, finding that the Council's election procedure was not governed by the KSC's ROB, and that appellant presented no evidence that the Council did not follow its own election procedures. Judgment was entered in favor of defendants, and this appeal followed.

DISCUSSION

I. Mootness.

“A case is moot when the decision of the reviewing court ‘can have no practical impact or provide the parties effectual relief. . . .’ ‘When no effective relief can be granted, an appeal is moot and will be dismissed.’” (*MHC Operating Limited Partnership v. City of San Jose* (2003) 106 Cal.App.4th 204, 214.)

Appellant claims that his appeal is not moot because our decision would provide him with effective relief. He asserts that he was “deprived of his membership in the Council for the reason that he raised the issue of the invalidity of the Election, and therefore, the declaratory judgment sought above would reinstate his membership in the Council.” But appellant cites to no place in the record showing that his membership was revoked. He also points out that he “sought general damages caused from his loss of opportunities to exercise his rights to run for the Election, vote in the Election and be heard at the Election meeting.” But appellant never presented any evidence on the issue of damages. Indeed, he never testified that he intended to run for president at the

election, nor did he present evidence that he was even eligible to run or that he had complied with the candidacy requirements.

Appellant also argues that we should decide his appeal because the issues he raises are matters of continuing public interest and likely to recur. (See *Konig v. Fair Employment & Housing Com.* (2002) 28 Cal.4th 743, 746, fn. 3.) But appellant offers no explanation of why the errors of which he complains are likely to recur. The Council's bylaws provide that the term of an elected officer is two years. Presumably, by the time judgment was entered on July 21, 2008, another presidential election had taken place. Yet, there is nothing before us to suggest that the same alleged election errors recurred. Nor has appellant otherwise established that the issues he raises are matters of continuing public interest. It would appear that appellant's appeal is moot and should be dismissed. But we consider and reach the merits of the appeal and find no basis for reversal of the judgment.

II. No Basis for Reversal.

Code of Civil Procedure section 631.8, subdivision (a) provides that "[a]fter a party has completed his presentation of evidence in a trial by the court, the other party, . . . may move for a judgment," and that the "court as trier of the facts shall weigh the evidence and may render a judgment in favor of the moving party." "The purpose of Code of Civil Procedure section 631.8 is to enable a trial court which, after weighing the evidence at the close of the plaintiff's case, is persuaded that the plaintiff has failed to sustain his burden of proof, to dispense with the need for the defendant to produce evidence. [Citations.]' Thus, section 631.8 serves the same purpose as does section 581c, which permits the court to grant a nonsuit in a jury trial. [Citation.] However, unlike a motion for nonsuit which may be brought only by the defendant, a section 631.8 motion may be brought by either party.'" (*Roth v. Parker* (1997) 57 Cal.App.4th 542, 549.)

"The substantial evidence standard of review applies to judgment given under Code of Civil Procedure section 631.8; the trial court's grant of the motion will not be

reversed if its findings are supported by substantial evidence. [Citation.]” (*Roth v. Parker, supra*, 57 Cal.App.4th at pp. 549–550.) Substantial evidence “is ‘evidence . . . “of ponderable legal significance, . . . reasonable in nature, credible, and of solid value.’” [Citation.]” (*Estate of Young* (2008) 160 Cal.App.4th 62, 76.) However, when reviewing a trial court’s legal conclusion based on undisputed facts, we are free to draw our own conclusions of law. (*Torrey Pines Bank v. Hoffman* (1991) 231 Cal.App.3d 308, 317.)

Appellant’s main argument on appeal is that the KSC’s ROB governed the Council’s presidential election, and that the election violated some of the ROB’s requirements, including a nationwide announcement of the general meeting for the presidential election, and qualification of the game associations and local associations as members of the Council. Appellant relies almost entirely on the provisions of the ROB, a document presumably created by the KSC in Korea. The Council, on the other hand, is a California corporation located in and governed by California law. There is no mention of the ROB in the Council’s bylaws, or in its other documents governing presidential elections, including the Council’s rule of president election control committee (PECC), or its presidential election regulation. The bylaws state only that the Council is a branch of the KSC and that it was established pursuant to the bylaws of the KSC. Neither the Council’s bylaws nor its other election-related rules incorporate the ROB. Although appellant claims that the Council’s PECC incorporates the rules of the KSC, the only provisions of the PECC he cites state merely that the PECC may be supplemented, and that to the extent matters are not covered by the PECC, the Council may turn to the KSC’s rules.

We find no error in the trial court’s conclusion that the ROB does not govern the Council’s election procedure.

Appellant also argues that the Council’s presidential election violated not only the ROB, but also certain rules of the PECC. But appellant’s complaint did not allege a violation of the PECC. Even assuming appellant could properly pursue this theory at trial, he cannot prevail on appeal. Appellant points out that sections 4.1 and 4.2 of the

PECC provide that at the board of directors' meeting, the directors shall pass a resolution forming the PECC and selecting the moderator of the PECC who will represent the PECC and control the presidential election. Appellant cites to the testimony of defendant Michael Park, the head of the election control committee, who admitted that there was no such director's meeting. Appellant argues that it is reasonably probable that a result more favorable to him would have been reached in the absence of these violations. But appellant makes no showing of how he was damaged. As noted above, he never presented evidence that he intended to run for president or that he was even eligible to run for president; nor did appellant present any evidence as to how the above violations prevented him from running for president.

Accordingly, appellant has failed to meet his burden on appeal of demonstrating a basis for reversal of the judgment.

DISPOSITION

The judgment is affirmed.

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_____, Acting P. J.

DOI TODD

We concur:

_____, J.

ASHMANN-GERST

_____, J.

CHAVEZ